

**PHILLIPS VARIANCE REQUEST
FOR A FUTURE AMENDED PLAT OF CORVALLIS TRACTS, BLOCK 1, LOT 30D**

STAFF REPORT FOR PLANNING BOARD

CASE PLANNER: Renee Van Hoven *rv*

**REVIEWED &
APPROVED BY:** Kelli Zittergruen *KZ*

**PUBLIC HEARINGS/
MEETINGS/DEADLINES:** RCPB Public Hearing: January 18, 2006
Deadline for PB recommendation to BCC: February 15, 2006
BCC meeting date: 9:00 a.m. February 7, 2006
Deadline for BCC action (35 working days): March 9, 2006

APPLICANT: William Dale Phillips
635 All View Lane
Corvallis, MT 59828

REPRESENTATIVES: Pat & Merl Baker
1771 Highway 93 N
Victor, MT 59875

**LOCATION OF
REQUEST:** The property is located approximately four miles north of Hamilton off
All View Lane (Map 1).



Map 1: Location Map
(Source Data: Ravalli County Planning Department)

**LEGAL DESCRIPTION
OF PROPERTY:**

Corvallis Tracts Subdivision, Block 1, Lot 30D, located in Section 9,
T6N, R20W, P.M.M., Ravalli County, Montana.

**APPLICATION
INFORMATION:**

The variance application was determined to be sufficient on
December 29, 2005. Interested agencies were notified of the
variance. Agency comments received by the Planning Department
and not included in the application packet are Exhibits A-1 through A-
4 of the staff report.

**LEGAL
NOTIFICATION:**

A legal advertisement was published in the Ravalli Republic on
Tuesday, January 3, 2006. Notice of the project was posted on the
property. Property owners adjacent to the property were notified of
the variance by certified mail postmarked January 3, 2006. One
public comment was submitted and is Exhibit B-1 of the staff report.

**DEVELOPMENT
PATTERN:**

Subject property	Residential
North	Open Field
South	Residential
East	Residential
West	Residential

RAVALLI COUNTY PLANNING BOARD

JANUARY 18, 2006

PHILLIPS VARIANCE REQUEST FOR A FUTURE AMENDED PLAT OF CORVALLIS TRACTS, BLOCK 1, LOT 30D

I. RECOMMENDED MOTION

That the variance request from Sections 5-4-5(a), (b), and (e) of the Ravalli County Subdivision Regulations, to allow the portion of All View Lane from the intersection with Bass Lane to the intersection with Wise's Way to remain in its current condition and to allow the portion of All View Lane from Wise's Way to the future lot on this property to be constructed to be a 20-foot wide gravel road within a 30-foot wide easement, be **denied**, based on the findings of fact and conclusions of law in the staff report.

II. INTRODUCTION

A similar variance request was previously requested by the applicant from the Ravalli County Subdivision Regulations in place at the time of the original variance application submittal, which was June 7, 2005 (Exhibit C: Planning Board Meeting Minutes - November 16, 2005). During the review process, the Subdivision Regulations, specifically the sections pertaining to roads, were amended. The Deputy County Attorney recommended that the applicant submit a variance request from the new Subdivision Regulations, as amended August 4, 2005, so that the variance request would be reviewed under the same Subdivision Regulations that will most likely be applicable to a future subdivision proposal from the applicant. The Ravalli County Subdivision Regulations are subject to change and there is no guarantee that this variance request will be applicable to a future subdivision proposal.

The variance request is for the potential future subdivision of Corvallis Tract, Block 1, Lot 30D. The future subdivision proposal is anticipated to create two lots, as shown on the reduced plat included in the application packet.

All View Lane from Bass Lane to Wise's Way is currently a 20-foot wide, privately-maintained gravel road within a 60-foot wide easement. From Wise's Way north to the subject property, All View Lane is a two track road varying from 10 to 12 feet in width within a 30-foot wide easement.

The applicant is not proposing to improve All View Lane from Bass Lane to Wise's Way. The applicant is proposing to improve All View Lane, from Wise's Way to a future second lot on the subject property, to be a 20-foot wide gravel road within a 30-foot wide easement.

Staff is recommending denial of the variance request.

III. VARIANCE REQUEST

The applicant has requested a variance from Sections 5-4-5 (a), (b), and (e) of the Ravalli County Subdivision Regulations for relief from improving the existing and proposed portions of All View Lane to meet County Standards. Staff finds that the request does not meet 4 out of the 5 criteria.

Compliance with Variance Review Criteria

A. The granting of the variance will not be substantially detrimental to the public health, safety or general welfare or injurious to other adjoining properties.

Findings of Fact:

1. Sections 5-4-5(a), (b), and (e) of the Ravalli County Subdivision Regulations require that private roads providing primary access to the subdivision are improved to meet County Standards. Section 5-4-5(a)(1) specifically states that for new and existing construction, the easement widths on roads must be a minimum of 60 feet.
2. All View Lane is currently a 20-foot wide, privately-maintained road with a gravel travel surface within a 60-foot wide easement from Bass Lane north to Wise's Way. From Wise's Way to the subject property, All View Lane is a two track road varying from 10 to 12 feet in width within a 30-foot wide easement.
3. The applicant is proposing to improve All View Lane, from Wises Way to the future second lot on the subject property, to be a 20-foot wide gravel road within a 30-foot wide easement. The applicant did not provide road plans for the improvements with specifications, such as the subbase materials and widths that will be used to improve the road. The applicant is not proposing any improvements to the portion of All View Lane from Bass Lane to Wise's Way.
4. In an email dated January 6, 2006, the Ravalli County Road and Bridge Department stated they did not support the variance request and recommended the road be paved and constructed to meet County Standards (Exhibit A-4).
5. The Board of Health has concerns regarding dust generated on gravel roads throughout the County and how this may affect air quality and public health (Exhibits A-1 and A-2).
6. In a letter received by the Planning Department on November 16, 2005, the Corvallis Rural Fire District stated that the applicant was proposing a 30-foot wide road and that the width would be adequate for the Fire District (Exhibit A-3). It was Staff's understanding that the applicant would be improving the portion of All View Lane from Wise's Way to the future lot on the subject property to the same road specifications as the portion of All View Lane from Bass Lane to Wise's Way. The application states that from Bass Lane to Wise's Way, All View Lane is a 30-foot wide gravel road. Staff has taken measurements and this portion of All View Lane is 20 feet wide. It appears that the Fire District was informed that the applicant is proposing a 30-foot wide gravel travel surface, but it is Staff's understanding that the proposal is to extend the 20-foot wide gravel road that is currently in place from Bass Lane to Wise's Way to access a future second lot on the subject property.

Conclusions of Law:

1. It is not clear if All View Lane, as proposed, will be adequate for emergency services.
2. The Road and Bridge Department does not support this variance.
3. If All View Lane is a gravel road, the increased traffic from the future subdivision of this property will negatively impact public health.

B. The conditions on which the request for a variance is based are unique to the property on which the variance is sought and are not applicable generally to other property.

Finding of Fact:

There are many properties in Ravalli County that are accessed by substandard privately-maintained roads.

Conclusion of Law:

The conditions upon which the variance is requested are not unique to the subject property.

C. Physical conditions, such as topography or parcel shape, prevent the applicant from meeting the strict letter of these regulations. These conditions shall not result from the past actions of the land's current or previous owner(s).

Finding of Fact:

The area surrounding All View Lane is level.

Conclusion of Law:

No physical or topographic limitations have been identified that would restrict the applicant from reconstructing All View Lane to meet the current the road standards.

D. The variance will not in any manner vary the provision of the zoning regulations or the Growth Policy.

Findings of Fact:

1. The property is not within a Zoning District.
2. Provisions of the Ravalli County Growth Policy are followed by an analysis (bulleted points) of the variance request against these provisions.

Countywide Goal 3: Protect air quality

Countywide Policy 3.2: Minimize dust and other air pollution by appropriate subdivision regulation.

- The Board of Health has concerns regarding air pollution stemming from dust generation and the effects on public health. Mitigation of impacts on air pollution, such as dust generation for this gravel road, has not been proposed (Exhibits A-1 and A-2).
- The Subdivision Regulations require the paving of All View Lane, which would remove the impacts to public health caused by dust.

Countywide Goal 4: Provide necessary infrastructure and public services to accommodate population growth and new development without undue impacts on the quality, quantity and cost of service to existing residents.

Countywide Policy 4.1: Encourage development that will minimize or avoid additional costs to existing taxpayers.

- If this variance was granted and All View Lane was connected to Joseph Drive to the north in the future, a 60-foot wide easement would not be available to improve All View Lane to meet County Standards. There may be additional costs to taxpayers to pay for the additional easement requirement.

Countywide Policy 4.2: Consider the cumulative impacts of development.

- There is the possibility that the properties north of the subject property will be developed in the future. It may make sense for All View Lane to connect to Joseph Drive in the future.

Without the provision of a 60-foot wide easement, it will be more difficult to improve the road to meet County Standards.

Countywide Policy 4.4: Improve and maintain existing infrastructure and public services.

- The Subdivisions Regulations require the applicant to improve the existing portion of All View Lane to meet County Standards. The applicant is requesting a variance from this requirement and is not proposing to make any improvements to the existing portion of All View Lane from Bass Lane to Wise's Way.

Conclusions of Law:

1. Zoning does not apply to this property.
2. The Growth Policy does not support granting this variance request.

E. The variance will not cause a substantial increase in public costs.

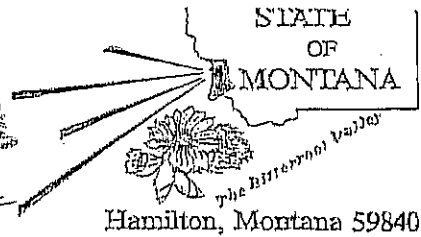
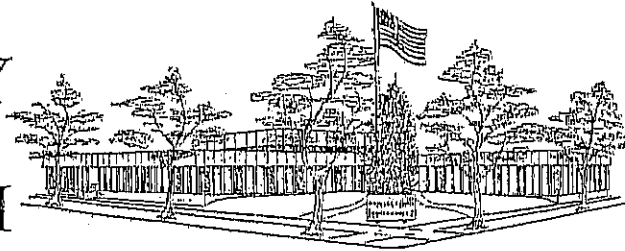
Findings of Fact:

1. It is not known if the road improvements to All View Lane proposed by the applicant will be adequate for the Corvallis Rural Fire District (See Criterion A).
2. If this variance was granted and All View Lane was connected to Joseph Drive to the north in the future, a 60-foot wide easement would not be available to improve All View Lane to meet County Standards. There may be additional costs to taxpayers to pay for the additional easement requirement.

Conclusion of Law:

There may be public cost involved with providing emergency services or improving All View Lane in the future.

COUNTY
OF
RAVALLI



EL-04-06-876

Ravalli Co. Planning Office

RAVALLI COUNTY BOARD OF HEALTH
215 S. 4th Street, Suite A
Hamilton, MT. 59840

JUN 23 2004

RECEIVED

June 23, 2004

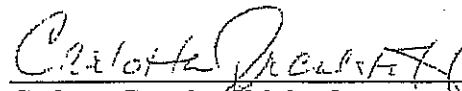
Road Standards Committee
C/O Ravalli County Planning Department

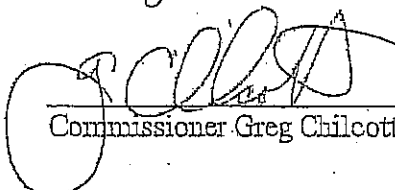
RE: Board of Health's Concerns for Road Standards

The Board of Health met in regular session on this date of June 23, 2004. In a discussion of air quality and roads, the Board of Health unanimously agreed that air quality and road safety are of paramount concern in the development of any road standards.

For the Board of Health:


Roger DeHaan, Member


Carlotta Grandstaff, Member


Commissioner Greg Chilcott, Chairman

Memo to: Ravalli County Commissioners
 From: Ravalli County Health Board
 Re: Proposed new County road regulations
 Date: April 4, 2005

Various research studies show a strong link between air borne dust particulates and human health problems, including emphysema, asthma and others. For further details, please see the article (and 72 referenced articles) from the American Academy of Pediatrics, 2004, "Ambient Air Pollution: Health Hazards to Children."

In Ravalli County, even though there is limited air monitoring we are able to do, it is clear that sometimes we have excessive particulate matter (mainly road dust) in our air. Additionally, citizens often complain to County and State agencies about specific road dust problems in certain areas.

Because of this, the Health Board strongly urges the Commissioners to include mandatory dust control measures in any road regulations for the County.

All new roads, including those in subdivisions, should be paved, or treated with dust suppressant such as magnesium chloride, at the time of construction. If the magnesium chloride option is chosen, which requires reapplication every other year, owners must provide sufficient bonding or financial guarantee to insure that the work will be done for an extended period such as 20 or 30 years.

For existing roads owned by the County, we recommend that the very first budget priority be to apply dust palliative on all roads. This means that ALL County roads should have a graded magnesium chloride surface before any road is given additional budget allocation for widening, paving etc.

We believe that these measures, if implemented, will significantly help the health condition of all citizens of Ravalli County.

Thank you for considering and including these provisions in the new road regulations.

Respectfully submitted by the Ravalli County Health Board:

Mr. Greg Chilcott, Ravalli County Commissioner

Dr. John Swanson, M.D.

Dr. Ellyn Jones, M.D.

Mr. Roger W. De Haan, P.E.

John Swanson

Ellyn P Jones M.D.

Roger W. De Haan

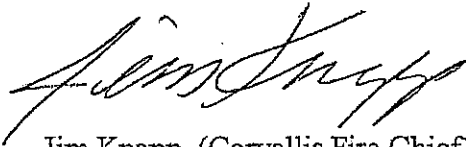
Corvallis Rural Fire District
P.O. box 13 Corvallis Mt, 59840

RECEIVED
NOV 16 2005
Ravalli County Planning Dept.

Attn: William Phillips

Thank you for consulting with us on splitting your property. I have personally gone to the sight with my assistant chief, and we have no problem with the split. You had mentioned that you were putting in a 30' wide road and that would be plenty for us. If you need any additional help please call me or stop by the station.

Thank you

A handwritten signature in cursive script, appearing to read "Jim Knapp".

Jim Knapp (Corvallis Fire Chief)

Renee Van Hoven

From: David Ohnstad
Sent: Friday, January 06, 2006 3:05 PM
To: Renee Van Hoven
Subject: corvallis tract

Renee -

Regarding the Request for Agency Comment on Corvallis Tract Block 1, Lot 30D, AP; Variance Request - the Road & Bridge Department **does not support** variance from the road improvement requirements of the subdivision regulations. All View Lane should be constructed and paved to conform to the county's adopted roadway design standards.

David

*David H. Ohnstad
County Road Supervisor
Ravalli County, Montana
(406) 363 - 2733*

November 16, 2005

RECEIVED

NOV 16 2005

Ravalli County Planning Dept.

Benjamin H. Howell, Planner I
Ravalli County
Hamilton, MT 59840

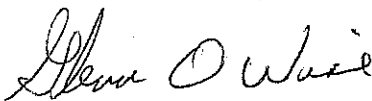
Mr. Howell:

As an adjoining property owner to Corvallis Tract Block I, Lot 30D, owned by W.D. Phillips, I was notified that he is requesting a variance regarding the road improvement.

I had a personal conversation with Mr. Phillips and indicated I would not oppose his request, provided he is willing to make it a matter of record that when All View Lane and Wise's Way is paved that each of his lots (2) be included in that expense. He stated he would be willing to do this and indicated that he would instruct his engineer to include this language as part of his request before the Planning Department.

Provided that this consideration is included, I personally would not be opposed to his request.

Thank you for your consideration.



Glenn O. Wise
609 Wise's Way
Corvallis, MT 59828

406 360-1756

**Ravalli County Planning Board
Meeting Minutes for November 16, 2005
2:30 p.m.**

Commissioners Meeting Room, 215 S. 4th Street, Hamilton, Montana

Public Hearings

Hamilton Heights Block 12, Lot 19A AP (Nielsen) Variance Request
Corvallis Tract Block 1, Portion of Lot 30 AP (Phillips) Variance Request
Hamilton Heights Block 3, Lot 7B AP (Grenell) Minor Subdivision and One Variance Request

This is a summary of the meeting, not a verbatim transcript. An audiotape of the meeting may be purchased from the Planning Department for \$10.00.

1. Call to order:

Dan Huls called the meeting to order at 2:30 p.m.

2. Roll Call: (See Attachment A, Roll Call Sheet)

(A) Members

David Dennis (not present)
Ben Hillicoss (present)
Dan Huls (present)
Frankie Laible (present)
Roger Linhart (present)
Howard Lyons (not present)
Chip Pigman (present)
Tom Ruffatto (not present-excused)
Les Rutledge (present)
Lori Schallenberger (present)

(B) Staff

Benjamin Howell
Kelli Zittergruen
Renee Van Hoven
Lavena House

3. Approval of Minutes

Dan asked if there were any corrections or additions to the minutes from November 02, 2005. **Chip** and **Lori** stated on page 5, they wanted comments from **Jeff Crouch** to be recorded word for word. Minutes are not taken word for word but a tape is available. **Renee** had distributed to the Planning Board for review the amendments to Minutes for the Stock Farm Lot 29 Subdivision for Lease or Rent. (See Attachment B, Amendment to Minutes). The minutes stand approved as amended.

4. Amendments to the Agenda

There were none.

(B) Corvallis Tract Block 1, Portion of Lot 30 (Phillips) Variance Request

- (i) Staff Report on the Variance Request: **Benjamin Howell** gave a Power Point presentation that included an overview of the proposal and stated that Staff recommends denial of the Variance Request. (See Attachment I, Phillips Variance Request Staff Report)

- (ii) Three Minute Rule Waiver Requests

There were none.

- (iii) Public Comment on the Variance Request

- (a) Persons in Favor

Merle Baker, a representative for **Mr. Phillips**, proposed a road extension to the second lot and said the previous Road Supervisor was in favor of the request (See Attachment J, Ravalli County Road Department). He also distributed a letter from the Corvallis Rural Fire Department (See Attachment J-1, Corvallis Rural Fire Department).

Glen Wise referred to a letter submitted to the Planning Department stating Mr. Phillips had agreed to be responsible for the expense for paving lots 1 & 2 (See Attachment K, Letter to Benjamin H. Howell, Planner 1). He also distributed a copy of AP 688 showing the 60 foot easement on All View Lane from Bass Lane to Wises Way. (See Attachment K-1, AP 688 amended subdivision plat).

Floyd LaBrant said his property adjoins the Phillips' property and he has no objection to the 30-foot wide easement if they build a gravel road before they subdivide. **Merle** said Mr. Phillips will maintain the road.

- (b) Persons Opposed

There were none.

- (c) Rebuttal

There was none.

- (d) Close: Public Comment

- (2) Board Deliberation on the Variance Request (from the road standards for All View Lane)

Frankie asked for a definition of a minor local road. **Chip** said he didn't think the right of way could meet the standards. **Chip** asked to clarify the variance from the right of way width and from the paving. **Merle** said he has a letter from **Reid Wiley** from the Road Department stating he sees no need for a 60-foot easement or for pavement. **Lori** asked if there is a road maintenance agreement and **Benjamin Howell** said there is a private agreement between the homeowners. **Floyd** said

that **Mr. Phillips** has agreed to pay 1/15 because there are 15 owners. A broad discussion took place between the Board and the developer's representatives concerning the easement. **Glen Wise** asked how the information was obtained and asked for clarification on the road easement. **Mrs. Baker** said there should only be a 30-foot easement because of telephone lines and a building. **Les** asked if they are going to bring the road to county standards. **Ben** asked if approved they would not need the easement. **Chip** said the Board would be giving an approval of the right of way and the standards. **Ben** asked if the variance were approved now, would the Planning Board review the road plans. Staff answered yes. **Kelli** said the variance would apply for 30 months.

(a) Board discussion and questions

Ben said the owners should deal with the right of way and pavement issues. **Chip** asked for Staff assistance. **Renee** said the Board might grant the variance with a condition that All View Lane be constructed to have a 20-foot wide gravel travel surface within a 30-foot wide easement from Bass Lane to the second lot of the subject property.

(b) Board action

(1) Review of the Variance Request against the Five Criteria

The Board did not review the Five Criteria beyond their discussion and the findings in the Staff Report.

(2) Board Decision

Chip made a motion to approve the variance based on the fact that there is a road maintenance agreement between the owners of All View Lane and that the road design would be submitted at subdivision application.

Lori seconded the motion

Ben asked **Chip** to make an amendment to identify the condition of the road.

Chip made an amendment to the motion to add conditions that All View Lane be constructed to have a minimum 20-foot wide gravel travel surface and a 30-foot wide easement, that the road plans be reviewed by the Board with the subdivision proposal, and that the neighbors work on an agreement to improve the entire length of All View Lane.

The vote was called; and the Members voted (7-0) to approve the Variance Request (See Attachment L, Vote Sheet Corvallis Tract Block 1, Portion of Lot 30 (Phillips)).

(C) **Hamilton Heights Block 3, Lot 7B AP (Grenell) Minor Subdivision and Variance Request**

- (i) Staff Report on the Subdivision Proposal and Variance Request: **Kelli Zittergruen** gave a Power Point presentation, which included an overview of the proposal and stated that Staff recommends conditional approval of the Subdivision based on the